

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

| | | |
|-------------------------------|---|------------------------|
| KEVIN MOORE, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | CIVIL ACTION NO. _____ |
| | § | |
| WESTERN GOVERNORS UNIVERSITY, | § | |
| PHIL BURIAN, KAREN LEDERER, | § | |
| and TERRY DYWELSKI, | § | |
| | § | |
| Defendants. | § | |

INDEX OF DOCUMENTS ATTACHED TO NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), the following documents are attached to the Notice of Removal filed herein.

| <u>Exhibit</u> | <u>Document Name</u> | <u>Date Filed</u> |
|-----------------------|----------------------------------|---|
| A-1 | Docket Sheet – State Court | 6/6/2025 (date provided by Clerk who refused to certify the docket sheet) |
| A-2 | Plaintiff's Original Petition | 3/12/2025 |
| A-3 | Request for Issuance of Citation | 5/7/2025 |
| A-4 | Citation | 5/9/2025 |

Dated: June 20, 2025

Respectfully submitted,

By: /s/ Talley R. Parker

Talley R. Parker

State Bar No. 24065872

talley.parker@jacksonlewis.com

JACKSON LEWIS P.C.

500 N. Akard, Suite 2500

Dallas, Texas 75201

PH: (214) 520-2400

FX: (214) 520-2008

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading was served upon the Plaintiff in this above cause in accordance with the Federal Rules of Civil Procedure on this 20th day of June, 2025.

/s/ Talley R. Parker

Talley R. Parker

Exhibit A-1

REGISTER OF ACTIONS

CASE NO. 25-2516-467

Kevin Moore V. Western Governors University Phil Burian, Karen Lederer, Terry Dywelski §

Case Type: **Retaliation**
 Date Filed: **03/12/2025**
 Location: **467th Judicial District Court**
 Judicial Officer: **Jones, Derbha H.**
 File Custody/Location: **District Clerk's Office**

PARTY INFORMATION

| | | Lead Attorneys |
|-----------|------------------------------|--|
| Defendant | Burian, Phil | |
| Defendant | Dywelski, Terry | |
| Defendant | Western Governors University | |
| Plaintiff | Moore, Kevin | Marc Anson Bozeman <i>Retained</i> 5499 Braesvalley Houston, TX 77096 832-741-7950(W) |

EVENTS & ORDERS OF THE COURT

| OTHER EVENTS AND HEARINGS | | |
|----------------------------------|---|----------|
| 03/12/2025 | Original Petition/Application | |
| | Filing Party: Moore, Kevin | |
| 03/13/2025 | Jury fee paid | |
| | (This entry only represents the payment of the jury fee - not a document filed with the clerk.) | |
| | By: Moore, Kevin | |
| 05/07/2025 | Request for Issuance of | |
| | <i>Citation</i> | |
| | Made by: Bozeman, Marc Anson | |
| 05/09/2025 | Citation | |
| | env# 100635087 | |
| | Western Governors University | Unserved |

FINANCIAL INFORMATION

| | | | |
|-------------------------------------|----------------------|--------------|-------------|
| Plaintiff Moore, Kevin | | | |
| Total Financial Assessment | | | 368.00 |
| Total Payments and Credits | | | 368.00 |
| Balance Due as of 06/03/2025 | | | 0.00 |
| 03/13/2025 Transaction Assessment | | | 360.00 |
| 03/13/2025 TexFile Payment | Receipt # 2025-8266 | Moore, Kevin | (223.00) |
| 03/13/2025 State Credit | | | (137.00) |
| 05/08/2025 Transaction Assessment | | | 8.00 |
| 05/08/2025 TexFile Payment | Receipt # 2025-14788 | Moore, Kevin | (8.00) |

Exhibit A-2

KEVIN MOORE,
PLAINTIFF

v.

WESTERN GOVERNORS UNIVERSITY
PHIL BURIAN, KAREN LEDERER
TERRY DYWELSKI
DEFENDANTS

§ IN THE DISTRICT COURT
§
§
§ OF DENTON COUNTY,
§ TEXAS
§
§ JUDICIAL DISTRICT

ORIGINAL PETITION

I. Discovery-Control Plan

1.01 Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 because this action is not an expedited action to be governed by Rule 169 as Plaintiff seeks more than \$250,000.

II. Parties

2.01 Plaintiff, Kevin Moore, an individual, is a resident of Denton County, Texas.

2.02 Defendant, Western Governors University (herein referred to as ‘WGU’), a foreign entity, service information to be provided at a later date.

2.03 Defendant, Phil Burian, an individual, service information will be provided at a later date. Defendant, Terry Dywelshi, an individual, service information will be provided at a later date.

III. Jurisdiction

3.01 This Court has jurisdiction over the lawsuit because the amount in controversy exceeds this court’s minimum jurisdictional requirements.

3.02 Venue is proper in Denton County under Texas Civil Practice & Remedies Code section 15.002 because all or a substantial part of the events or omissions occurred in Denton County.



3.03 Alternatively, venue is proper in Denton County under Texas Civil Practice & Remedies Code section 15.002 because Plaintiff resided in Denton County at the time this cause of action accrued.

IV. Facts

4.01 The charge was filed with the Equal Employment Opportunity Commission within the 180 day time period of the incidents giving rise to this action. This action has been filed within the 90 day window of Plaintiff's receipt of notice of his right to sue under Texas and federal law.

4.01 Plaintiff was employed by Western Governors University for 8 years.

4.02 WGU has employed more than the minimum amount of employees required to fall into the jurisdiction of both the federal and state law asserted in this action.

4.03 Plaintiff was qualified with his position for the company. Plaintiff is a member of a protected class.

4.04 Back in 2021, Plaintiff sought a promotion. He was required to take a test for this position.

4.05 Sometime, in or around the summer of 2023, Mr. Moore became aware that no white employees were required to take the test for that position. Subsequently upon realizing that, Mr. Moore made a complaint of discrimination to the human resources department at WGU. Additionally, he filed a charge of discrimination with the Equal Employment opportunity Commission. Both complaints were made in or around September of 2023. WGU was given notice of these complaints subsequently after they were made. After making these complaints, WGU punished Mr. Moore in various ways, including leveling unsatisfactory performance reviews against him.

4.06 On the 6th of October 2023, Mr. Moore was fired.



4.07 The named individuals in the lawsuit played a role in the harassment and intimidation Mr. Moore received.

4.08 Mr. Moore has suffered financially, as he lost his salary, and has experienced mental anguish resulting in changes to his daily life routine.

4.09 Mr. Moore was the only employee at WGU in his department that was treated in this manner. Additionally, he was the only one who was terminated. None of his other co-workers experienced this same treatment. None of these co-workers were members of Mr. Moore's protected class. These co-workers were not African American.

Causes of Action

V. Count I - 42 U.S. Code § 12203 Retaliation

5.01 Plaintiff engaged in a protected activity by filing a charge and making a complaint of discrimination. Plaintiff was terminated. There was a causal connection because Plaintiff was fired very shortly after Defendant was given notice of Plaintiff's participation in the protected activity.

5.02 As a result of this violation, Plaintiff has suffered the following injuries:

- a. mental anguish past and future
- b. lost wages past and future

5.03 Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court.

VI. Count II - Tex. Lab. Code § 21.055 Retaliation

6.01 Plaintiff engaged in a protected activity by filing a charge and making a complaint of discrimination. Plaintiff was terminated. There was a causal connection because Plaintiff was fired very shortly after Defendant was given notice of Plaintiff's participation in the protected activity.



6.02 As a result of this violation, Plaintiff has suffered the following injuries:

- a. mental anguish past and future
- b. lost wages past and future

6.03 Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court.

VII. Count III. Title VII Employment Discrimination-Disparate Treatment.

7.01 Plaintiff suffered adverse employment actions at the hands of Defendant.

7.02 As a result of this violation, Plaintiff has suffered the following injuries:

- a. mental anguish past and future
- b. lost wages past and future

7.03 Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court.

VIII. Count IV. Section 1981 Discrimination

8.01 Plaintiff was prohibited from contracting as though he were a white citizen.

8.02 As a result of this violation, Plaintiff has suffered the following injuries:

- a. mental anguish past and future
- b. lost wages past and future

8.03 Plaintiff seeks unliquidated damages within the jurisdictional limits of this Court.

IX. Jury Demand

9.01 Plaintiff demands a jury trial and tenders the appropriate fee with this petition.

X. Prayer

10.01 For these reasons, Plaintiff asks that the court issue citation for Defendants to appear and answer, and that Plaintiff be awarded a judgment against Defendants for the following

- a. Actual damages.
- b. exemplary damages
- c. Prejudgment and postjudgment interest.



- d. Court costs.
- e. Attorney fees.
- f. All other relief to which Plaintiff is entitled.

Respectfully submitted,

The Bozeman Law Firm

/s/ Marc Anson Bozeman
Attorney-In-Charge
Texas State Bar No. 24057044
5499 Braesvalley, No. 462
Houston, Texas 77096
Telephone: (832) 741-7950
mb@bozemanlitigation.com

ATTORNEY FOR PLAINTIFF



Date

CERTIFIED A TRUE AND CORRECT COPY
OF THE RECORD ON FILE IN MY OFFICE

DAVID TRANTHAM

DENTON COUNTY DISTRICT CLERK

By:

Deputy Clerk

Exhibit A-3

Denton County District Clerk
Ph: 940-349-2200**E-FILING REQUEST FOR ISSUANCE**

- ❖ This document MUST be filed as a separate LEAD document when e-filing.
- ❖ Choose the Filing code:
 - (New Suits select: "Application" and on Subsequent filings select "Request")
- ❖ Select the type of issuance using the "Optional Services" section on the e-filing screen
- ❖ If a service document is required, you must add the "Copies for Service" and enter the number of pages the clerk needs to print. (Ex: Petition is 5 pages, 3 citations are requested: 5 x 3 = 15 pages will need to be printed by the clerk)

Cause No. 25-2516-467Document to
be served:Citation

Style of Case:

Kevin MooreV. Western Governors University et alPlease use this form when requesting issuance of the below listed
types of issuance through the e-filing system.

Please use other request forms for: Abstracts, Executions, Subpoenas and Order Withholdings

Please select the type and quantity of issuance(s) needed:

| Type | Amt | Quantity | Type | Amt | Quantity |
|-----------------------------|------|----------|--------------------------------------|------|----------|
| Citation | \$8 | 1 | Expunction Notices: Petition & Order | \$11 | |
| Citation for Foreclosure | \$46 | | Expunction Notices: Amended Petition | \$5 | |
| Notice | \$8 | | Expunction Orders: Amended Orders | \$8 | |
| Show Cause Notice | \$8 | | Letter Rogatory | \$8 | |
| Temporary Restraining Order | \$8 | | Commission | \$8 | |
| Protective Order Notice | | | All Writs | \$8 | |

Note: PUBLICATION COSTS – If publication is requested in the Denton Record Chronicle,
we will provide your contact information to the Denton Record Chronicle for billing.

Name of party to be served:

Western Governors UniversityType: Citation

Address for service:

AgentCogency Global Inc.1601 Elm St., Suite 4360 Dallas TX 75201

Name of party to be served:

Type:

Address for service:

Please attach additional pages if there are more parties to be served.

***** Check one of the options below for your preferred service method *****

Please hold at Clerks office:

I will bring in a file-marked copy of the service document to your office for the issuance to be picked up at the front counter.

I request that the issuance be returned by e-service. (service document copy fee and service fee not required)
E-mail Address 1: mb@bozemanlitigation.com, Utlaw2007@gmail.com

Please serve by Denton County Constable/Sheriff (I have added the cost for a copy of the service document and have also added the service fee for the Sheriff/Constable)



Please serve by Certified Mail (I have added the cost for a copy of the service document and have also added the Certified Mail service fee.)

Additional Notes: _____

Requestor Name & Phone number:

Marc Bozeman 832-741-7950CERTIFIED A TRUE AND CORRECT COPY
OF THE RECORD ON FILE IN MY OFFICE

DAVID TRANTHAM

DENTON COUNTY DISTRICT CLERK

By:

Deputy Clerk

Exhibit A-4

CITATION –TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 25-2516-467

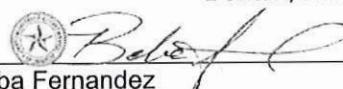
TO: Western Governors University Attn: Cogency Global Inc. 1601 Elm St. Ste. 4360, Dallas TX 75201 (or wherever he/she may be found)

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may also be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

| | |
|----------------------------|--|
| Court: | 467th Judicial District Court 1450 E. McKinney, 2nd Floor, Denton, TX 76209 |
| Cause No.: | 25-2516-467 |
| Date of Filing: | March 12, 2025 |
| Document: | Original Petition |
| Parties in Suit: | Kevin Moore; Western Governors University; Phil Burian; Terry Dywelshi |
| Clerk: | David Trantham, District Clerk, 1450 E. McKinney, Suite 1200, Denton, TX 76209 |
| Party or Party's Attorney: | Marc Anson Bozeman 5499 Braesvalley, No. 462 Houston TX 77096 |

Issued under my hand and seal of this said court on this the 9th day of May, 2025.

David Trantham, District Clerk
Denton, Denton County, Texas

BY:  Deputy
Beba Fernandez

Service Return

Came to hand on the _____ day of _____, 20____, at _____ m., and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named _____ in person a true copy of this citation, with attached copy(ies) of the Original Petition, at _____.

Service Fee: \$ _____

Sheriff/Constable
County, Texas

Service ID No. _____

Deputy/Authorized Person

VERIFICATION

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the _____ day of _____, 20_____
Notary Public



CERTIFIED A TRUE AND CORRECT COPY
OF THE RECORD ON FILE IN MY OFFICE

DAVID TRANTHAM

DENTON COUNTY DISTRICT CLERK

By:

6/4/25
Date

Deputy Clerk